

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
EASTERN DISTRICT WI
FILED

AUSTIN F. JAHNKE,
Applicant,
Jacket ID #: 61867
Kenosha County Detention Center

2020 NOV 10 P 1:26

CLERK OF COURT

20-6-1693

Docket No. _____

vs.

KENOSHA COUNTY SHERIFF'S DEPARTMENT,
and DEPARTMENT OF CORRECTIONS,
Respondent(s).

**APPLICATION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241
BY A PERSON IN CUSTODY**

I. GENERAL INFORMATION:

A. Austin Frank Jahnke
B. Address of custodial location: 4777 88th Avenue, Kenosha, WI 53144

II. SUBJECT OF THIS APPLICATION:

A. Type of decision or action that I am challenging: Detainer/illegal pretrial detention and revocation of probation.
B. Who made the decision or took the action: Kenosha Sheriff's Department
C. Date of decision or action: July 15th, 2020
D. Was there a hearing of any kind?: Yes.

If yes,

1. First Hearing:

a. Date: July 24th, 2020
b. Location: Room 157 at the Pretrial Facility in Kenosha, WI.
c. Conducted by: Commissioner Loren Keating
d. Result: Was given a \$10,000 cash bond and had a preliminary hearing set for July 31st, 2020

2. Second Hearing:

- a. Date: July 31st, 2020.
- b. Location: Room 157 at the Pretrial Facility in Kenosha, WI.
- c. Conducted by: Commissioner Loren Keating
- d. Result: I was not brought to the hearing and per Wisconsin Court Access, Kenosha Sheriff's Department stated that I was unavailable. Hearing was rescheduled for August 19th, 2020.

3. Additional Hearings:

- a. Date(s); August 19th, 2020 and September 24th, 2020
- b. Location: Room 157 at the Pretrial Facility in Kenosha, WI.
- c. Conducted by: Commissioner Loren Keating
- d. Result: At both hearings, I was told by Commissioner Keating that I had to toll the time if I wanted an attorney.

4. Additional Hearing:

- a. Date: October 20th, 2020
- b. Location: Room 157 at the Pretrial Facility in Kenosha, WI.
- c. Conducted by: Commissioner Loren Keating
- d. Result: I was told by Commissioner Keating that since I did not voluntarily toll the time, that i would be forced to represent myself.

5. Last Hearing:

- a. Date: October 30th, 2020
- b. Location: Room 157 at the Pretrial Facility in Kenosha, WI.
- c. Conducted by: Commissioner Loren Keating
- d. Result: Commissioner Keating tolled the time for good cause since an attorney still had not been appointed.

E. Was I represented by an attorney at any hearing:

Yes.

Names:

| | |
|---|---|
| 1. Hilary Edwards Public Defender Office 604 57th Street Kenosha, WI 53140 | 2. Terry Rose Rose & Rose 5529 Sixth Ave Kenosha, WI 53140 |
|---|---|

F. If you are challenging your illegal pretrial detention, complete the following:

1. Charge(s): Possession with intent to deliver cocaine (> 40G), Possession with intent to deliver THC (<= 20G), Possession of paraphenilia, and Felony bail jumping.
2. Name and location of court in which charges are pending: Kenosha County Courthouse, 912 56th Street Kenosha, WI 53140.
3. Case Number: 20CF830

4. Date of Arrest and initial confinement on charges: July 15th, 2020.

G. If you are in custody after conviction and sentencing, complete the following:

1. Offense: Possession of a firearm by a felon.
2. Name and location of court which imposed the sentence: Kenosha County Courthouse, 912 56th Street Kenosha, WI 53140.
3. Case Number: 17CF773
4. Date of conviction: April 13th, 2020.
5. Date of sentencing: April 13th, 2020.
6. Length of sentence: Five years probation, sentence withheld.
7. Did you appeal the conviction?: No.
8. Have you challenged this sentence in any other conviction proceeding?: No.

III. PREVIOUS APPEALS/ADMINISTRATIVE REMEDY PROCEDURES:

- A. Did you appeal the decision or action listed in II(A) to a federal court previously?: No.
- B. Have you filed any previous lawsuit(s) related to your present application?: No.
- C. If your application concerns a federal parole matter, complete the following: N/A
- D. Did you appeal the decision to the National Appeals Board/U.S. Parole Commission?: No.
- E. If your application concerns an immigration matter, complete the following: N/A

IV. GROUNDS FOR RELIEF:

Ground One: I am being deprived of my due process rights.

Supporting FACTS: I had my initial appearance on July 24th, 2020 and as of today, November 5th, 2020 a preliminary examination has not been conducted. The Commissioner is not appointing me counsel and has stated on the record that he was going to make me represent myself. The Statutory right to a timely preliminary hearing has been violated and I have not had the opportunity to discuss my case with an attorney and been in custody for well over 100 days.

Ground Two: I am being deprived of my right to counsel.

Supporting FACTS: I have been formally without an attorney since September 24th, 2020 (over 40 days). Hilary Edwards withdrew on August 19th, 2020 for a conflict of interest and I did not get another attorney appointed until September 9th, 2020. On September 24th, 2020, attorney Terry Rose withdrew and I have been without an attorney ever since. After I did not agree to toll the time, Commissioner Loren Keating advised me that he was going to make me represent myself.

Ground Three: Commissioner Loren Keating is abusing his power and discretion.

Supporting FACTS: Commissioner Loren Keating told me on the record, on two separate occasions (August 19th, 2020 and September 24th, 2020), that if I wanted an attorney to represent me, I HAD to toll the time for a preliminary hearing. On October 20th, 2020, when I

still did not have an attorney appointed, Commissioner Keating asked if I would toll the time and when I said no, he proceeded to yell at me and told me that he was going to force me to represent myself since I would not agree to toll the time. I have sent in numerous letter expressing my concern that I need a lawyer.

Ground Four: I have attempted to contact the Chief Judge, Jason A. Rossell, with all of my concerns but I have not received a response other than a response informing why my request for DNA was denied.

Supporting FACTS: I sent in letters to Judge Jason A. Rossell, Chief Judge of the 2nd District, on October 7th, 20th, and 25th, 2020 and November 1st, 2020 regarding my all of my concerns. It has been a few weeks and still have not received any response other than the letter when I asked why they were ignoring my request for fingerprints and DNA.

Ground Five: I have not had the chance to be heard and do not have an attorney appointed in regards to my revocation.

Supporting FACTS: I have not had any type of hearing in regards to my revocation and no attorney is currently representing me and I cannot afford an attorney.

V. REQUEST FOR RELIEF:

I would like to be discharged from the custody of Kenosha County Sheriff's Department. I have been asking repeatedly for an attorney but the court has made it clear that they are only leaving it up to the public defenders office.

VI. DECLARATION UNDER PENALTY OF PERJURY:

I, the undersigned, hereby declare under penalty of perjury that the foregoing information is true and correct.

Signed this 5TH day of November, 2020.


Signature of Applicant

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
EASTERN DISTRICT-WI
FILED

AUSTIN F. JAHNKE,
Plaintiff or Petitioner,
Jacket ID #: 61867
Kenosha County Detention Center

vs.

KENOSHA COUNTY SHERIFF'S DEPARTMENT,
and DEPARTMENT OF CORRECTIONS,
Respondent(s).

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CLERK OF COURT

20-8-1693

Case No. _____

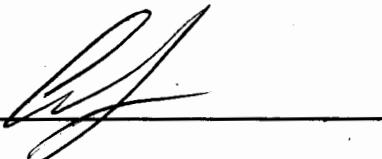
**AUTHORIZATION FOR RELEASE OF INSTITUTIONAL ACCOUNT INFORMATION
AND PAYMENT OF THE FILING FEE**

I, Austin F. Jahnke, #61867, hereby authorize the court to obtain from the agency having custody of me, information about my institutional trust account, including balances, deposits, and withdrawals over the prior six months.

I further authorize the agency or facility having custody of me to continue to disclose information about my institutional trust account, including balances, deposits, and withdrawals to the court until the filing fee in this matter is paid in full.

I further authorize the agency or facility having custody of me to withdraw funds from my institutional trust account in accordance with 28 U.S.C. § 1915 and to forward these funds to the court for payment of any filing fee.

Signature:



Date: 11/05/20

This form does not need to be notarized.